



## Legislation Text

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File #: 22-491, Version: 1

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**TO: Mayor and Commissioners**  
**FROM: Anthea Gianniotis, Development Services Director**  
**THROUGH: Terrence Moore, ICMA-CM**  
**DATE: May 3, 2022**

ACCEPTANCE OF A DRAINAGE EASEMENT ALONG THE WEST SIDE OF THE SINGLE-FAMILY RESIDENCE, BETWEEN VISTA DEL MAR SOUTH AND SEABREEZE AVENUE ON THE PROPERTY LOCATED AT 212 SEABREEZE AVENUE.

**Recommended Action:**

Review and consider acceptance of a drainage easement along the west side of the single-family residence, between Vista Del Mar and Seabreeze Avenue on the property located at 212 Seabreeze Avenue.

**Background:**

The subject property located at 212 Seabreeze Avenue consists of Lot 21 and the West 35 Feet of Lot 22, Delray Beach Esplanade, is zoned Single Family Residential (R-1-AA) and is individually listed to the Local Register of Historic Places, known as the Sewell C. Biggs House. The Drainage Easement expands the existing easement on the property to accommodate a larger stormwater pipe, which will aid in improving drainage in the surrounding neighborhood. The property is currently under construction and the execution of the easement is required prior to certificate of occupancy.

The original structure was built in 1955 and contained 1,594 square feet, including a glass entry vestibule on the ground floor. In the early 1980's a 1,156-1st floor addition was constructed on the north side of the property.

At its meeting of June 15, 2005, the Historic Preservation Board (HPB) recommended approval for individual historic designation of 212 Seabreeze Avenue to be known as The Sewell C. Biggs House. At its meeting of July 5, 2005, the City Commission passed Ordinance 50-05 that listed the subject property on the Local Register of Historic Places. Named for the original owner, Sewell C. Biggs, and designed by architect Paul Rudolph, the structure is representative of 20th century regional modernism tailored for the Florida environment.

At its meeting of July 18, 2018, the HPB approved a COA request for the demolition of an existing 1,936 square foot, handicap accessible addition to the existing structure on the South elevation; and demolition of the first-floor addition constructed in 1981 on the North elevation. The request also included revocation of the existing Ad Valorem Tax Exemption Covenant (ORB 24208, Pages 718-721). HPB recommended approval of the revocation at the July 18, 2018, meeting and the City Commission approved the request via Resolution 99-18 at their August 21, 2018 meeting. Following city review and approval, the Palm Beach County Board of Commissioners approved the request to revoke the Ad Valorem Tax Exemption at their September 24, 2018, meeting subject to a repayment

of the taxes owed for the difference in the exemption plus interest, which was approximately \$5,017.41. Subsequently, the non-contributing additions were demolished.

On May 1, 2019, the HPB approved a Certificate of Appropriateness, Variance, and Waiver request for the construction of a new 2-story addition, variances to reduce the front yard setback for a pool & to reduce the finished floor elevation for the first floor of the new addition, and a waiver to the Visual Compatibility Standards to allow the new addition to be constructed in a manner that is not secondary nor subordinate to the existing structure. A building permit was issued, and work began on the project.

In July of 2020, a Stop Work Order was issued by the Chief Building Official as it was determined that demolition work had been completed on the structure that exceeded what was authorized by the HPB. The demolition work included removal of the existing structure to the original metal frame of the building. It was also determined that the structure had been vertically elevated in place.

Following the issuance of the Stop Work Order, the city engaged Historic Preservation Architect Richard J. Heisenbottle, on a consultant basis to assess the property and its ability to remain on the Local Register of Historic Places. In September of 2020, Mr. Heisenbottle provided the city with an expert analysis of the historic integrity of the structure and the path forward for the building to retain its Local Register Listing, which included review and approval of an after the fact demolition and reconstruction as well as approval of the vertical elevation of the structure 18”.

Then, on December 18, 2020, the Code Enforcement Division of the Neighborhood and Community Services Department issued the property owner code enforcement violations as follows:

- An exterior and interior demolition was conducted prior to obtaining an approved demolition permit. Submit and obtain a demolition permit from the building department.
- Work has been conducted that exceeds the scope of work provided in the single-family addition permit (19-185798). The elevation of the structure exceeds the elevation listed on the approved building permit. Submit an amendment to the existing permit to permit the actual height of the structure.
- An exterior and interior demolition of a historically designated structure exceeding 25% of the structure was conducted prior to obtaining a Certificate of Appropriateness (COA). Submit a COA application and obtain approval of the COA from the HPB.

The violations were heard by the Special Magistrate on February 24, 2021. The Special Magistrate found that the respondent/property owner was in violation and ordered the property owner to submit a new COA within 60 days to appear before the HPB to address concerns from city staff, no fines were assessed.

On December 1, 2021, the HPB approved a COA request, for an after the fact demolition, change in finish floor elevation to 7' NAVD, and contemporary reconstruction of the existing historic structure. The approval included dedication of land for a drainage easement along the west side of the property, between Vista Del Mar and Seabreeze Avenue.

The Drainage Easement is a technical document required to execute the approved project at 212 Seabreeze Avenue.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

The Building Permit certificate of occupancy cannot be issued prior to the execution of the easement.